

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION



ANNUAL REPORT

FISCAL YEAR 2005

July 1, 2004 through June 30, 2005

January 2006

**Southwestern Low-Level Radioactive Waste Commission
PO Box 277727
Sacramento, California 95827-7727**

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

ANNUAL REPORT FOR FISCAL YEAR 2005

(July 1, 2004 to June 30, 2005)

"The Commission shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report submitted on or before January 15 of each year" (P.L. No. 100-712, 102 Stat. 4773.)

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HIGHLIGHTS OF FISCAL YEAR 2005 (July 1, 2004-June 30, 2005) ACTIVITIES

I. STATUS OF THE REGIONAL DISPOSAL FACILITY

A. FISCAL YEAR 2005 HOST STATE REPORT

The State of California provided the following report:

"As of December 1, 2005, there are 2,055 active radioactive materials licenses issued by the California Department of Health Services (CDHS). This figure has remained relatively constant, hovering around the 2,100 mark over the last few years.

"The California Department of Health Services issued approximately 246 radioactive materials license terminations and site/facility releases for unrestricted use in 2005. The CDHS goal for acting on license termination requests continues to be a 90-day turn around time.

"A fee increase regulation became effective for radioactive materials fees submitted commencing September 1, 2005. Some initiatives previously postponed due to funds availability from the Radiation Control Fund (RCF) may now be reconsidered as funds become available from the increased fees. One of these initiatives is the low level radioactive waste (LLRW) inventory and tracking system that was mandated by SB 2065, which was approved in the 2002 legislative session. A second initiative that was commenced by CDHS, but suspended due to the lack of adequate funds in the RCF, is the agreement CDHS entered into with the California Department of General Services to prepare a notice and invitation for environmental engineering organizations to submit qualifications to conduct the Environmental Impact Study (EIS). This EIS was required by court order prior to CDHS establishing a dose-based regulation for radioactive materials license terminations and site/facility releases for unrestricted use.

"Also approved in the 2002 legislative session was AB 2214, which prohibited the use of Ward Valley as a site for a LLRW disposal site and directed CDHS to develop requirements for an enhanced LLRW storage facility along the lines of an assured isolation site as opposed to a disposal site. Although not specifically required by the legislation, new regulations would have to be developed and promulgated in order to license an assured isolation site such as envisioned by the bill. This legislation directed CDHS to seek a private firm to build and operate such a site. CDHS has no application pending for either a LLRW disposal site or an assured isolation facility. There have been no inquiries or interest expressed regarding either type of facility".

B. FISCAL YEAR 2005 LICENSEE REPORT

US Ecology, Inc. provided the following report:

"US Ecology is not presently undertaking efforts to develop a regional disposal facility for the Southwestern Compact region. The Company is awaiting information on the State of California's specific plans to carry out its continuing obligation under state and federal law to develop a regional low-level radioactive waste disposal facility."

II. COMPACT COMMISSION

A. COMMISSION MEETINGS

The Southwestern Low-Level Radioactive Waste Commission (membership list attached) held its 44th and annual meeting on October 1, 2004 at Tempe, Arizona. The State of California licensing agency representative reported on regulatory actions by the Radiologic Health Branch and noted that no license application had been received for development of a disposal facility. American Ecology provided a letter report noting that the license designee, US Ecology, had filed an opening brief appealing an earlier decision in the court's lawsuit against the State of California. The Commission amended its documents entitled "Policy of the Southwestern Low-Level Radioactive Waste Commission Regarding Exportation of Various Low-Level Radioactive Waste Streams" and "Requirements of the Southwestern Low-Level Radioactive Waste Commission for Exportation Petitions for Low-Level Radioactive Waste Disposal" to allow waste exportation through calendar year 2005.

The Commission decided not to change the fee structure. It continued exportation fees for calendar year 2005 at \$1.35 per cubic foot, with a minimum fee of \$55.00, and \$0.10 per cubic foot for volumes in excess of 40,000 cubic feet. The Commission amended its document entitled "Southwestern Low-Level Radioactive Waste Commission Resolution Relating to the Contingency Exportation of Waste from the Region" to allow waste exportation through calendar year 2006 in the event that obtaining a two-thirds vote of the Commission was not possible due to Commission member vacancies not being filled. The Bylaws were amended to incorporate the above documents by reference and to add procedures to be followed if the Executive Director becomes incapacitated. In other actions the Commission amended its Fiscal Year 2005 budget to \$158,950 and adopted a Fiscal Year 2006 budget of \$160,360. The Commission reelected California Commissioner Kathy Davis as Chair and Arizona Commissioner Aubrey Godwin as Vice-Chair.

The Commission's 45th meeting was held on April 8, 2005 at Rapid City, South Dakota. Members from the States of Arizona, North Dakota and South Dakota said that those states were waiting to see what California would do regarding low-level waste disposal. The California licensing agency was not represented at the meeting. The license designee, US Ecology, submitted a letter report in which it stated that it was unaware of any specific plans by the State of California to develop a disposal facility. The Commission instructed Counsel to determine the feasibility of the Commission's taking legal action and instructed the Chair to write to California Governor Arnold Schwarzenegger regarding the need for timely action to develop a regional disposal facility. In other actions the Commission amended the contract with the Executive Director and made minor adjustments in the Fiscal Year 2006 budget.

B. CHAIR'S ACTIVITIES

At the October 2004 meeting, Commission Chair Kathy A. Davis said that she had sent a letter to California Governor Arnold Schwarzenegger, noting that the Commission had been able to establish communications with Department of Health Services and Department of Toxic Substances Control staff for the first time in several years. The letter pointed out California's obligations under law to develop a low-level radioactive waste disposal facility and urged appointment of Commissioners to fill the two California vacancies.

In her report at the April 2005 meeting, Chair Davis said that she had sent a letter to California Governor Arnold Schwarzenegger requesting the State's plans for a regional disposal facility. The letter had not received a response and the California representative who had planned to attend the meeting had been unable to do so. She reported that she had attended the March meeting of the LLW Forum and had participated in a tour of the Envirocare of Utah disposal facility and had spoken with a Department of Homeland Security official regarding disposing of radioactive waste which could result from a so-called "dirty bomb" and intended to invite him to a future Commission meeting.

C. EXECUTIVE DIRECTOR'S ACTIVITIES

At the October 2004 meeting Mr. Womeldorf reported that, for the year 2004, 154 petitions for exportation to Envirocare of Utah and 38 petitions for exportation to the Barnwell, South Carolina facility had been approved. With the help of the volunteer Administrative Assistant, a workshop on regulatory aspects of low-level waste management and disposal was to be presented at Concord, California and Ontario, California. He had attended a hearing of the California Performance Review Task Force and submitted a comment urging that the California radiation control program be kept intact. He and staff had attended a meeting of the LLW Forum at which several federal actions relating to low-level waste disposal, and federal legislation, had been discussed. The Commission instructed him to track the legislation.

Mr. Womeldorf reported at the April 2005 meeting that the number of petitions for exportation of low-level waste at Envirocare had increased over the years, while those for exportation to the Barnwell facility had decreased. He said that a workshop on waste manifesting, transportation, and tracking was planned for presentation in October. He and staff had attended a meeting of the LLW Forum; the Forum had accepted the Commission's invitation to hold its April 2007 meeting in San Diego in conjunction with the Commission's meeting.

D. COMMISSION VACANCIES

Arizona, North Dakota, and South Dakota are each authorized one Commission member and one alternate. During the fiscal year, the three states' members and alternates positions were completely filled.

California, as the host state, is authorized four Commission members and four alternates. Having four California members is important because it permits the host state members to comprise at least 51 percent of the membership on the Commission, as authorized by the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act. During the fiscal year two California Commissioners were appointed and the Senate confirmation process begun. The Commission was grieved by the untimely death, via homicide, of long-time California Commissioner Robert J. Lull, M.D. At the close of the fiscal year the resulting California vacancy had not been filled.

PROJECTIONS OF THE REGIONAL DISPOSAL FACILITY'S ANTICIPATED FUTURE CAPACITY

The projections of the facility's anticipated future capacity is unknown as is the status of the regional waste facility. Current California law prohibits the proposed Ward Valley radioactive waste disposal site from serving as California's facility for purposes of the Southwestern Low-Level Radioactive Waste Disposal Compact and prohibits disposing of low-level radioactive waste using shallow land burial. New requirements for a low-level disposal facility have yet to be developed by the California Department of Health Services.

BUDGET: FY 2006 (July 1, 2005-June 30, 2006)

The Commission approved a budget for FY 2006 as follows:

Personnel services	\$77,372
Operating expense	46,780
Meetings expense	2,000
Travel	25,000
Workshop expense	<u>16,000</u>

Total	<u>\$167,152</u>
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The Commission anticipated receipts for FY 2006 in the amount of \$167,152 to be derived from exportation fees, workshop registrations, and bank interest.

DONATIONS, GRANTS, AND OTHER RESOURCES ACCEPTED

No donations, grants, or other resources were accepted during FY 2005.

RECOMMENDATIONS: ALTERNATIVE TECHNOLOGIES

California, as host state, is responsible for selecting the low-level radioactive waste disposal technology. As noted earlier, current California law prohibits the disposal of low-level radioactive waste in shallow land burial, i.e., disposal of low-level radioactive waste in or within the upper 30 meters of the earth's surface. The law specifies the use of multiple, engineered barriers to provide for the retention of the radioactive waste within the engineered barriers to last not less than 500 years, using best available technology. No further recommendations were made for alternative technologies.

ATTACHMENTS

I. AUDIT REPORT: FY 2005.

The audit report is attached.

II. COMMISSION MEMBERSHIP

A list of Commission members, alternates, and staff is attached.

ATTACHMENT I

**SOUTHWESTERN LOW-LEVEL
RADIOACTIVE WASTE COMMISSION**

FINANCIAL STATEMENTS

YEARS ENDED JUNE 30, 2005 AND 2004

WITH

INDEPENDENT AUDITOR'S REPORT

INDEPENDENT AUDITOR'S REPORT

To the Commissioners

and the Executive Director,
Mr Don J Womeldorf

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

I have audited the accompanying statement of net assets – cash basis of **Southwestern Low-Level Radioactive Waste Commission** (a regional governmental agency) as of June 30, 2005 and 2004, and the related statements of activities and changes in net assets – cash basis for the years then ended. These financial statements are the responsibility of the Southwestern Low-Level Radioactive Waste Commission's management. My responsibility is to express an opinion on these financial statements based on my audits.

I conducted my audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. I believe that my audits provide a reasonable basis for my opinion.

As described in Note A, these financial statements were prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In my opinion, the financial statements referred to above present fairly, in all material respects, the net assets – cash basis of **Southwestern Low-Level Radioactive Waste Commission** as of June 30, 2005 and 2004, and its statements of activities and changes in net assets – cash basis for the years then ended, on the basis of accounting described in Note A.

s/Richard K. Linderman, CPA

September 26, 2005

STATEMENT OF NET ASSETS – CASH BASIS

JUNE 30, 2005 AND 2004

ASSETS

	<u>2005</u>	<u>2004</u>
Cash and cash equivalents:		
Cash in bank - savings	\$ 44,447	\$ 11,993
Cash in Bank - checking	5,037	5,292
Petty cash	67	96
Certificates of deposit	<u>410,878</u>	<u>367,073</u>
Total cash and cash equivalents	<u>460,429</u>	<u>384,454</u>
Total assets	<u>\$460,429</u>	<u>\$384,454</u>

NET ASSETS

Net assets		
Unrestricted	<u>\$460,429</u>	<u>\$384,454</u>
Total net assets	<u>\$460,429</u>	<u>\$384,454</u>

The accompanying note is an integral part of these financial statements

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS – CASH BASIS

**FOR THE YEARS ENDED JUNE 30, 2005 AND
2004**

	<u>2005</u>	<u>2004</u>
Revenues:		
Exportation fees	\$205,912	\$ 176,715
Workshop registrations	10,000	16,400
Interest income	<u>4,969</u>	<u>3,008</u>
Total revenues	<u>220,881</u>	<u>196,123</u>
Expenses:		
Contractor costs	78,025	77,598
Workshop expenses	8,332	13,099
Commissions meetings and expenses	804	601
Office expense	468	261
Professional services	2,800	2,650
Postage	282	268
Bonding	326	326
Dues and subscriptions	8,395	8,295
Insurance	21,743	23,198
Internet/website	924	313
Telephone	336	331
Travel	<u>22,471</u>	<u>15,934</u>
Total expenses	<u>144,906</u>	<u>142,874</u>
Increase in net assets	75,975	53,249
Net assets, beginning of year	<u>384,454</u>	<u>331,205</u>
Net assets, end of year	<u>\$460,429</u>	<u>\$ 384,454</u>

The accompanying note is an integral part of these financial statements.

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2005 AND 2004

A SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND ORGANIZATION

The summary of significant accounting policies of Southwestern Low-Level Radioactive Waste Commission (the Commission) is presented to assist in understanding the Commission's financial statements. The financial statements and notes are representation of the Commission's management who is responsible for the integrity and objectivity of the financial statements.

Nature of Operations – Southwestern Low-Level Radioactive Waste Commission is a regional governmental agency authorized by various Federal and State public laws. It is the governing body of a compact of four states (California, Arizona, North Dakota and South Dakota) established to control the importation and exportation of radioactive waste into and out of these regions. Operations are overseen by seven commissioners appointed by the Governors of the four states (four from California, the "host" state, and one each from Arizona, North Dakota and South Dakota). The review of exportation petitions and recommendations for approval are contracted out to an Executive Director.

Revenues are derived from exportation fees charged to those entities that create radioactive wastes in the four states, and then desire to export and dispose of such wastes outside of these states. The Commission publicizes its existence and services via its website and direct mailers to waste generators, brokers, processors and disposal facility operators.

While laws authorizing the Commission contain no "sunset" clauses, it is a governmental agency; and as such, controlling Federal and State governments may alter its activities, or even discontinue the entity at any time.

Basis of Accounting – The Commission's policy is to prepare its financial statements on the cash basis of accounting; wherein certain revenues are recognized when received rather than when earned, and certain expenses and purchases of assets are recognized when cash is disbursed rather than when the obligation is incurred. Consequently, no provision has been made for accounts receivable, accounts payable, and other accruals of income, expense, assets or liabilities.

Cash and Cash Equivalents – For purposes of these financial statements, the Commission considers securities with a maturity of three months or less to be cash equivalents.

Income Taxes – As a government agency, the Commission's activities are not subject to Federal or State income tax and, therefore, no provision for income taxes has been made in these financial statements.

ATTACHMENT II

THE SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Each party state is represented by one Commissioner, appointed by the Governor and confirmed by the Senate of the appointing state. One member represents the host county and the host state is authorized additional members to comprise a majority of the Commission. Appointed alternates may act in a member's absence. The following individuals served as Commissioners, Alternates and staff during the fiscal year.

COMMISSIONER

ARIZONA

Aubrey V. Godwin
Arizona Radiation Regulatory Agency
4814 South 40th Street
Phoenix, AZ 85040

CALIFORNIA

Kathy A. Davis
17521 Mesa Street
Hesperia, CA 92345

Donna L. Earley
8700 Beverley Blvd SSB650
Los Angeles CA 90048

James G. Tripodes
4158 Emerson Drive
Livermore CA 94551

Robert J. Lull, M.D.
(deceased)

NORTH DAKOTA

Dana K. Mount, Sr. Envir. Engineer
Environmental Health Section
North Dakota Department of Health
1200 Missouri Avenue, Room 201
Bismarck, ND 58506-5520

SOUTH DAKOTA

Joe Nadenicek, Staff Attorney
Dept. Environment and Natural Resources
523 East Capitol (Foss Bldg.)
Pierre, SD 57501-3181

ALTERNATE COMMISSIONER

William A. Wright

Arizona Radiation Regulatory Agency
4814 South 40th Street
Phoenix, AZ 85040

Peter S. Brierty, Fire Marshall

San Bernardino County
620 South E Street
San Bernardino, CA 92415-0153

Kenneth W. Wangler, Manager

Radiation and Indoor Air
North Dakota Department of Health
1200 Missouri Avenue, Room 304
Bismarck, ND 58506-5520

Bob McDonald, Project Scientist

Dept. Environment and Natural Resources
523 East Capitol (Foss Bldg.)
Pierre, SD 57501-3181

COMMISSION STAFF

Don J. Womeldorf
Executive Director
PO Box 277727
Sacramento, CA 95827-7727

Stephen L. Kowalewski
Legal Counsel
2438 Via Camino Avenue
Carmichael CA 95608